

Ampio Pharmaceuticals, Inc.  
Form 8-K  
February 10, 2016

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
**WASHINGTON, D.C. 20549**

**FORM 8-K**

**CURRENT REPORT**

**Pursuant to Section 13 or 15(d)**  
**of the Securities Exchange Act of 1934**

**Date of report (Date of earliest event reported): February 8, 2016**

**AMPIO PHARMACEUTICALS, INC.**

**(Exact name of registrant as specified in Charter)**

**Delaware**  
**(State or other jurisdiction of**  
**incorporation or organization)**

**001-35182**  
**(Commission**  
**File No.)**  
**373 Inverness Parkway, Suite 200**

**26-0179592**  
**(IRS Employer**  
**Identification No.)**

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**Englewood, Colorado 80112**

**(Address of principal executive offices, including zip code)**

**(720) 437-6500**

**(Registrant's telephone number, including area code)**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- .. Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- .. Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- .. Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- .. Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**Item 1.01 Entry into a Material Definitive Agreement**

On February 10, 2016, Ampio Pharmaceuticals, Inc., a Delaware corporation (the Company), entered into a Controlled Equity Offering<sup>SM</sup> Sales Agreement (the Agreement) with Cantor Fitzgerald & Co. (Cantor Fitzgerald) to implement an at-the-market equity offering program under which the Company from time to time may offer and sell shares of its common stock, par value \$0.0001 per share, having an aggregate offering price of up to \$25,000,000 (the Shares) through Cantor Fitzgerald.

Subject to the terms and conditions of the Agreement, Cantor Fitzgerald will use its commercially reasonable efforts to sell the Shares from time to time, based upon the Company's instructions. The Company has no obligation to sell any of the Shares, and may at any time suspend sales under the Agreement or terminate the Agreement in accordance with its terms. The Company has provided Cantor Fitzgerald with customary indemnification rights, and Cantor Fitzgerald will be entitled to a fixed commission of 3.0% of the gross proceeds from Shares sold.

Sales of the Shares under the Agreement will be made in transactions that are deemed to be at-the-market offerings as defined in Rule 415 under the Securities Act of 1933, as amended, including sales made by means of ordinary brokers transactions, including on the NYSE MKT, at market prices or as otherwise agreed with the Cantor Fitzgerald.

The description of the Agreement set forth herein does not purport to be complete and is qualified in its entirety by reference to the full text thereof, which is attached hereto as Exhibit 10.1 and incorporated by reference herein.

A Registration Statement for the Shares has been filed with the Securities and Exchange Commission (the SEC) and was declared effective by the SEC on January 22, 2014. This Form 8-K shall not constitute an offer to sell or the solicitation of an offer to buy any securities, nor shall there be any sale of these securities in any state or jurisdiction in which such an offer, solicitation or sale would be unlawful prior to the registration or qualification under the securities law of any such state or jurisdiction.

**Item 8.01 Other Events**

As previously disclosed, on May 8, 2015 and May 14, 2015, purported stockholders of the Company brought two putative class action lawsuits in the United States District Court in the Central District of California, Napoli v. Ampio Pharmaceuticals, Inc., et al., Case No. 2:15-cv-03474-TJH and Stein v. Ampio Pharmaceuticals, Inc., et al., Case No. 2:15-cv-03640-TJ, alleging that the Company and certain of its current and former officers violated federal securities laws by misrepresenting and/or omitting information regarding the STEP study. The cases were consolidated, and on February 8, 2016, plaintiffs filed a consolidated amended complaint alleging claims under Sections 10(b) and 20(a) and Rule 10b-5 under the Securities Exchange Act of 1934, as amended, and Sections 11 and 15 under the Securities Act of 1933, as amended, on behalf of a putative class of purchasers of common stock from January 13, 2014 through August 21, 2014, including purchasers in the Company's public offering on February 28, 2014. The lawsuits seek unspecified damages, pre-judgment and post-judgment interest, and attorneys' fees and costs.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits

<b>Exhibit Number</b>	<b>Description</b>
5.1	Opinion of Goodwin Procter LLP

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- 10.1 Controlled Equity Offering<sup>SM</sup> Sales Agreement, dated February 10, 2016, by and between Ampio Pharmaceuticals, Inc. and Cantor Fitzgerald & Co.
- 23.1 Consent of Goodwin Procter LLP (included in Exhibit 5.1)

**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**AMPIO PHARMACEUTICALS, INC.**

By: /s/ Gregory A. Gould  
Gregory A. Gould  
*Chief Financial Officer*

Dated: February 10, 2016

**EXHIBIT INDEX**

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